



U.S. Department of Transportation

**Federal Highway
Administration**

Memorandum

Subject: **ACTION:** Denial of Buy America Waiver

Date: April 21, 2008

/s/ original signed by

From: **Dwight Horne**
Director, Office of Program Administration

Reply to
Attn. of: HIPA-30

To: **Thomas Sorel**
Division Administrator
St. Paul, MN

This memorandum is in response to the Buy America waiver request for the 16" pipe piling, which you submitted on behalf of Norman County and the Minnesota Department of Transportation (MnDOT). The FHWA has completed a review process in compliance with the statutory requirement for the Secretary of Transportation to implement an informal public notice and comment opportunity for each waiver request.

Specifically, on March 7, 2008, the FHWA published a notice of this waiver request and received fourteen comments. Based on the comments received and the MnDOT's analysis of the circumstances, we understand that the contract documents incorporated the appropriate Buy America requirements and that domestic pipe piling sources were available at the time of the contract letting. Thus, there is no basis for a Buy America waiver and the request is denied.

We understand that Norman County and the Minnesota DOT had adequate inspection procedures to stop the installation of the non-domestic material. Approximately 15,000 of the required 22,000 linear feet of 16" pipe piling had already been delivered to the project prior to discovery that non-domestic piling composed a significant portion of the delivery. In consideration of the efforts by MNDOT and Norman County to comply with the Buy America requirements of 23 CFR 635.410, we believe that the County should not be unfairly penalized. Therefore, the domestic pipe pile is eligible for Federal participation; however, all non-domestic piling is not eligible for Federal participation.

You may contact Mr. Edwin Okonkwo, our Buy America coordinator (202-366-1558), should you have any questions on this matter.

